

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RYSTA LEONA SUSMAN, Both	)	CASE NO. 8:18CV127
individually and as Legal Guardian of	)	
Shane Allen Loveland; and JACOB )	)	
SUMMERS	)	
	)	
Plaintiff(s),	)	
	)	
	)	
v.	)	
	)	
THE GOODYEAR TIRE & RUBBER	)	
COMPANY	)	
	)	
Defendant(s). )	)	

**PLAINTIFFS' BRIEF IN OPPOSITION TO GOODYEAR'S MOTION  
IN LIMINE REGARDING SOUTHWELL ATTIRE AND JUROR HANDOUTS**

Comes now Plaintiffs and files this Brief in Opposition to Doc # 166, Goodyear's Motion in Limine Regarding David Southwell Attire and Juror Hand-outs. For the foregoing reasons, Goodyear's motion should be denied as moot.

**ARGUMENT**

**I. Plaintiffs' Counsel and all Witness under Plaintiffs' Control will Abide by General Standards of Courtroom Decorum.**

David Southwell is a tire forensic expert who will be called to testify regarding his expertise and review of the underlying evidence in this matter. Mr. Southwell is a scientist who, from time to time, wears a lab coat to prevent his clothing from being damaged by the materials under his review, such as the large failed tire at issue herein. To better understand his testimony, and as will most certainly also be the case with Defendant's tire expert, it is necessary for Mr. Southwell to physically handle and manipulate the tangible evidence under his review. Mr. Southwell, or anyone for that matter, wearing a lab coat is nothing more than a measure taken to prevent damage

to clothing. In simple terms, the subject evidence is dirty, prickly, and difficult to manage without using hands and body as leverage.

With its motion, Goodyear seems to indicate that Mr. Southwell, through his actions and attire, intends to mislead the jury as it concerns his experience and/or expertise. Such could not be further from the truth. Moreover, any such futile, overt efforts to mislead the jury would not be in Plaintiff's best interest, as counsel for Goodyear is more than competent enough to swiftly correct such a misunderstanding on cross-examination to Plaintiffs' detriment.

More importantly, Plaintiffs will abide by general rules of courtroom decorum. Should it be necessary for any reason whatsoever to approach any juror in any manner whatsoever then such a situation will first and foremost be addressed with the Court.

### CONCLUSION

For the reasons herein above, and because nothing Goodyear addresses in its motion rises to the level of a potential mistrial issue, Plaintiffs request the Court deny Goodyear's motion in full, or alternatively as moot based on the above representations.

Respectfully submitted,

**KASTER, LYNCH, FARRAR, & BALL, L.L.P.**

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with NECivR 7.1(d)(3) and further certify that the word count function was applied to include all text, including the caption, headings, footnotes, and quotations. This document was prepared using Microsoft Word 2013 and contains 620 words.

**CERTIFICATE OF SERVICE (CM/ECF)**

I HEREBY CERTIFY that on February 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

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